

City of San Jose - PBCE – Planning Division - Imaging Index Cover Sheet

Address/Location: north side of Berryessa Road, (Flea Market) (1590 BERRYESSA RD)

Permit/Project No.: PD08-069 Issuance Date: 11/06/13

Prepped By: PKELLY Closed By: CCLARK RSN: 1362134

Category	Document Type	Sub Document Type
<input type="checkbox"/> (EF) Environmental Files (203)	<input type="checkbox"/> (PP) Public Project Files (203-03)	<input type="checkbox"/> (EN) EIR <input type="checkbox"/> (DA) Approved Document <input type="checkbox"/> (EM) Maps <input type="checkbox"/> (AE) Application <input type="checkbox"/> (AG) Agency Correspondence <input type="checkbox"/> (EG) General Correspondence <input type="checkbox"/> (TR) Technical Reports <input type="checkbox"/> (RE) Archaeological Reports <input type="checkbox"/> (EP) Plans
<input type="checkbox"/> (GP) General Plan (204)	<input type="checkbox"/> (GA) General Plan Amendments (204-02)	<input type="checkbox"/> (AM) Amendment <input type="checkbox"/> (AA) Application <input type="checkbox"/> (CG) Correspondence
	<input type="checkbox"/> (GE) Environmental Review (for 204 series GP Amendments)	<input type="checkbox"/> (GD) Approved Document <input type="checkbox"/> (GI) EIR <input type="checkbox"/> (GS) Supporting Documents <input type="checkbox"/> (GT) Technical Reports <input type="checkbox"/> (GR) Archaeological
<input checked="" type="checkbox"/> (DR) Development Review (207)	<input checked="" type="checkbox"/> (PR) Projects (207-02, 207-03, etc.)	<input type="checkbox"/> (ZN) Zoning <input type="checkbox"/> (PE) Permit <input type="checkbox"/> (MP) Maps <input checked="" type="checkbox"/> (AP) Application <input type="checkbox"/> (AC) Agency Correspondence <input type="checkbox"/> (GC) General Correspondence <input type="checkbox"/> (PL) Plans <input type="checkbox"/> ST Approved Storm-Water Ctrl Plans
	<input type="checkbox"/> (ER) Environmental Review (for 207 series Project Files)	<input type="checkbox"/> (EA) Approved Document <input type="checkbox"/> (EI) EIR <input type="checkbox"/> (ES) Supporting Documents <input type="checkbox"/> (ET) Technical Reports <input type="checkbox"/> (AR) Archaeological
	<input type="checkbox"/> (AD) Adjustments (207-12)	<input type="checkbox"/> (DO) Documents <input type="checkbox"/> (PA) Plans <input type="checkbox"/> SW Approved Storm-Water Ctrl Plan <input type="checkbox"/> PK Parking Analysis
	<input type="checkbox"/> (PI) Public Info Letters (207-29)	<input type="checkbox"/> (LE) Letter <input type="checkbox"/> (LS) Supporting Docs



City of San Jose

Department of City Planning, Building and Code Enforcement

200 East Santa Clara Street
San Jose, CA 95113-1905
(408) 535-7800

File Number	PD08-069	Council District	4	Planning Area	Berryessa
Filing Date	11/26/2008	Project Manager	RBUIKEMA	Tech	Helen Maddox
Initial Envir Clearance App. Re-use of Master EIR (otherwise exempt)					
Annexation	Berryessa No 41, Orchard 17-DEC-79, 20-JUN-6				
Description	Planned Development Permit to allow for developing commercial component of a mixed-use project, as phase one of the Master Planned Development Permit PD08-025, on a 9.8 acre portion of a 58.0 gross acre site				
Location	north side of Berryessa Road, between Cornish Lane (Flea Market)				
Owner	JOHN GARCIA				
Previous Files:	PD08-027	PT08-019	DMV06-053	DMV06-052	DMV06-037
APN	24104006 7		Census Tract	5043.11	
Existing GP	TCR (20+), CIC		Existing Zoning	A(PD)	
Gross Acres	9.8		Net Acres		
Planned Community	No				
Existing Use	Vacant		Proposed Use	Other Commercial	
No. of Existing Lots			No of Lots Proposed		
Est. Occupancy Date			Initial Processing Fee	\$9,180.75	
Elem. School District	East Side Union High School District, Berryessa Union School I				
Environmental Checklist:					
Historic:	No		GeoHazard Zone:	No	
Flood Zone:			Historic Conservation Area:	No	
Road Noise:	70-74, 60-64, 65-69 FWY		Near a Waterway:	Yes	
Archeology:	Yes				
Internal Referrals:					
San Jose Water Company					
Union Pacific Railroad					
Baviere Olivier Building Division					
MANK KEVIN San Jose Police Dept.					
NAUM-STOIAN NADIA San Jose Fire Dept.					
Pineda Manuel Dept. of Transportation					
Sohrabi Ebrahim Development Services Div.,					
Vroman Junko Environmental Services Dept.					

PROJECT APPLICATION SUMMARY

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PLANNED DEVELOPMENT PERMIT/AMENDMENT APPLICATION

TO BE COMPLETED BY PLANNING DIVISION STAFF

FILE NUMBER PD 08-069	COUNCIL DISTRICT 4	QUAD # 61	RECEIPT #:
ZONING FILE NUMBER PDC 03-108	ORDINANCE NUMBER		AMOUNT: 9180.75
PROJECT LOCATION 1590 Berryessa Rd.			DATE: 11/26/08
			BY:

TO BE COMPLETED BY THE APPLICANT (PLEASE PRINT OR TYPE)

Pursuant to the Provisions of Part 8 of Chapter 20.100 of the San Jose Municipal Code, application is made to request a:

CHECK ONE BOX

☒ PLANNED DEVELOPMENT PERMIT

☐ AMENDMENT TO A PLANNED DEVELOPMENT PERMIT

PREVIOUS PD PERMIT FILE NUMBER **PD** _____

FOR THE PROPERTY LOCATED AT: (Use the property description from the PD Zoning, not a Property Address)

1590 Berryessa Road

DOES THE PROJECT INVOLVE HUD FEDERAL FUNDING? ☒ NO ☐ YES

PLEASE INDICATE WHETHER USE OF HUD FUNDING IS ANTICIPATED, FOR THE PROPOSED PROJECT.

☒ NO ☐ YES

If yes, indicate type of funding (i.e. CDBG Grant, HOME Investment Partnership Program, Section 108 Loan Guarantee, etc.), funding amount, whether awarded (if known) or application is pending, and fiscal year of award or application request.

PLEASE NOTE: Projects involving 1) acquisition of real property involving a change of use, or 2) new construction may require an Environmental Assessment (EA). Concurrent environmental review per the California Environmental Quality Act (CEQA) is also required. The obtainment of a qualified environmental consultant to provide documentation services (i.e. a combined Initial Study/EA) is strongly recommended.

STORMWATER RUNOFF DATA:

- Site size: 420,540 sq. ft. (acres multiplied by 43,560 sq. ft.)
- Existing impervious surface area (includes land covered by buildings, sheds, patios/covers, parking lots, streets, sidewalks, paved walkways and driveways): 420,024 sq. ft.
- New Impervious surface area created, added, or replaced: 420,024 sq. ft.
- Total proposed impervious surface area (new + existing): TBD sq. ft.
- Percent increase/decrease/replacement of impervious surface area (c./d. multiplied by 100): TBD %
- Will or have hazardous materials been used or stored on site? Yes or No
- If required, has a Hazardous Materials Management Plan been approved for the site? Yes or No

PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.
THIS APPLICATION APPOINTMENT IS LOCATED ON THE 3RD FLOOR OF CITY HALL.

ASSESSOR'S PARCEL NUMBER(S) (APN) 241-04-006, 007, 241-03-020		GROSS ACREAGE 9.8 Acres	NET ACREAGE 9.8 Acres
EXISTING USE OF PROPERTY Commercial		ESTIMATED DATE OF OCCUPANCY (month/year) TBD	
PROPOSED USE OF PROPERTY OR SUBJECT OF AMENDMENT General Commercial uses with limited automobile uses.			
IF PROPOSAL IS RESIDENTIAL- NUMBER OF UNITS		IF PROPOSAL IS NON-RESIDENTIAL- NEW GROSS BUILDING SQUARE FOOTAGE 0	
<p>THE FOLLOWING EXHIBITS ARE ATTACHED HERETO AND MADE A PART THEREOF BY REFERENCE.</p> <p><input checked="" type="checkbox"/> A LEGAL DESCRIPTION OF SUBJECT PROPERTY - EXHIBIT A</p> <p><input checked="" type="checkbox"/> THE COMPLETED DEVELOPMENT PLAN SET FOR THE SUBJECT PROPERTY, ENTITLED <u>Planned Development Permit for a Mixed- Use Commercial Transit Village</u></p> <p>DATED 10/ 31 /08 AND LAST REVISED 10 / 31 /08 ,</p> <p>CONSISTING OF SHEETS</p>			

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AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT:

1. The undersigned are all the owners of all the property described in Exhibit A - Legal Description of Subject Property, or tenants of the entire subject site with a recorded lease and a term remaining of at least five years.
2. The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. If there are any existing active or deactivated water wells on your property, they must be shown on your plans. The property which is the subject of this application:

_____ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application


☒ does not contain existing active or deactivated water wells.

4. In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research. The property which is the subject of the above-referenced application is _____ is not _____ included on said list.
If included on the List, the listed item reads as follows:

THE UNDERSIGNED HEREBY DECLARE THAT THEY UNDERSTAND THE FOLLOWING APPLIES TO THEIR PROJECT:

5. **Notice to Applicants regarding effect of Wastewater treatment capacity on land development approvals.** Part 2.75 of Chapter 15.12 of the San Jose Municipal Codes requires that an applicant acknowledge the effect of Wastewater treatment capacity on Land development approvals at the time of application. As owner (s) of the property subject to this development application, I(we) hereby acknowledge the requirements of the Municipal Code, as stated below, and understand that these requirements will apply to the development permit for which I(we) am(are) applying.

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

PRINT NAME OF PROPERTY OWNER The Flea Market, Inc.		DAYTIME TELEPHONE # (408) 453-1110	FAX TELEPHONE # ()
ADDRESS 1590 Berryessa Road	CITY San Jose	STATE CA	ZIP CODE 95131
NAME OF FIRM, IF APPLICABLE		TITLE OR OTHER OFFICIAL CAPACITY*	
SIGNATURE (PRINT NAME IF DIFFERENT THAN THE ABOVE PROPERTY OWNER) 		DATE	

* PLEASE STATE IF YOU ARE A PARTNER, PRESIDENT, VICE-PRESIDENT, ETC...

IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.

**PLEASE CALL THE APPOINTMENT DESK AT (408) 535-3555 FOR AN APPLICATION APPOINTMENT.
THIS APPLICATION APPOINTMENT IS LOCATED ON THE 3RD FLOOR OF CITY HALL.**

CONTACT PERSON			
That for the purpose of processing and coordination of this application, the following person is my (our) designated representative/contact person:			
PRINT NAME OF CONTACT PERSON Erik Schoennauer		NAME OF FIRM, IF APPLICABLE The Schoennauer Company	
ADDRESS 2066 Clarmar Way	CITY San Jose	STATE CA	ZIP CODE 95128
DAYTIME TELEPHONE # (408) 947-7774	FAX TELEPHONE # ()	E-MAIL ADDRESS es@stanfordalumni.org	
PROJECT DEVELOPER			
PRINT NAME OF PROJECT DEVELOPER (IF DIFFERENT THAN OWNER) The Flea Market, Inc.		NAME OF FIRM, IF APPLICABLE	
ADDRESS 1590 Berryessa Road	CITY San Jose	STATE CA	ZIP CODE 95131
DAYTIME TELEPHONE # (408) 453-1110	FAX TELEPHONE # ()	E-MAIL ADDRESS	
ARCHITECT and ENGINEER			
PRINT NAME OF ARCHITECT Michael Martin		NAME OF FIRM, IF APPLICABLE Craig and Grant Architects	
ADDRESS 301 Hartz Ave. Suite 213	CITY Danville	STATE CA	ZIP CODE 94526
DAYTIME TELEPHONE # (925) 820-7585	FAX TELEPHONE # (925) 820-5858	E-MAIL ADDRESS	
PRINT NAME OF ENGINEER Tony Vignolo		NAME OF FIRM, IF APPLICABLE HMH Engineers	
ADDRESS 1570 Oakland Road	CITY San Jose	STATE CA	ZIP CODE 95131
DAYTIME TELEPHONE # (408) 487-2200	FAX TELEPHONE # (408) 487-2222	E-MAIL ADDRESS tvignolo@hmh-engineers.com	

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FINANCIAL TITLE COMPANY

Underwritten by First American Title Insurance Company

PRELIMINARY REPORT

HMH Engineering
Attn: Steve Danner
1570 Oakland Rd. Suite 200
San Jose, CA 95131

Branch:
941 W. Hedding St
San Jose, CA 95126
Phone: (408) 345-4500 Fax: (408) 345-4510
Contact: Gary Roseen / /rjc
Title Contact: Jim Murphy

Property Address:
11861 Berryessa Road
San Jose, CA 95133

Order Number: 2741S007-287-GBC

Other Reference:
Buyer/Borrower:

In response to the above referenced application for a policy of title insurance, this Company reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms. The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in Exhibit A attached.

Please read the exceptions shown or referred to below and the Exceptions and Exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land. This report (and any supplements hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The form of policy of title insurance contemplated by this report is:

TBD (to be determined)

Dated as of **March 25, 2008** at 7:30 a.m.

The estate or interest in the land hereinafter described or referred to covered by this Report is:

A Fee

Title to said estate or interest at the date hereof is vested in:

**BUMB AND ASSOCIATES, A CALIFORNIA GENERAL PARTNERSHIP, WHO ACQUIRED
TITLE AS BUMB & ASSOCIATES, A PARTNERSHIP AND THE FLEA MARKET INC., A
CALIFORNIA CORPORATION, AS THEIR INTERESTS MAY APPEAR OF RECORD**

FINANCIAL TITLE COMPANY

Underwritten by First American Title Insurance Company

PRELIMINARY REPORT

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Parcel A, as shown on that certain Record of Survey filed for record in the office of the Recorder of the County of Santa Clara, State of California on March 10, 1969, in Book 250 of Maps, page(s) 19.

APN: 241-04-007

ARB: 243-12-020

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in said policy would be as follows:

EXCEPTIONS:

1. General and special taxes and assessments for the fiscal year 2008-2009, a lien not yet due or payable.
2. General and special taxes and assessments for the fiscal year 2007-2008.

First Installment: \$46,379.12 Paid
Second Installment: \$46,379.12 Paid
Tax Rate Area: 17-010
A. P. No.: 241-04-007
3. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
4. Any adverse claim based upon the assertion that;

(A) Said land or any part thereof is now or at any time has been below the ordinary high water mark of Coyote River.

(B) Some portion of said land has been created by artificial means or has accreted to such portion so created.

(C) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of Coyote River or has been formed by accretion to any such portion
5. Such rights and easements for recreation, navigation and fishery which may exist over that portion of said land lying beneath the waters of Coyote River.
6. An Agreement, affecting said land, for the purposes stated herein and subject to the terms, covenants, and/or conditions, and easements, if any, contained therein

For: Boundary Line Agreement
Dated: August 12, 1893
Executed by: J.J. Bowen, et ux, and Mark Cornish
Recorded: August 15, 1893 in Book X, Page 633, Miscellaneous Records
7. Resolution granting a Conditional Use Permit allowing continued operation of Nine existing Snack Bars, subject to the terms and conditions therein provided,

Resolution No.: 88-88
File No.: CP 88-05-036
Recorded: April 13, 1989 in Book K 913, Page 1507, Official Records

8. An irrevocable offer to dedicate an easement for public street and road purposes affecting the portion of said land stated herein,

Executed by:	Bumb & Associates, a California general partnership and The Flea Market, Inc, California corporation
In favor of:	City of San Jose, a municipal corporation
Recorded:	September 28, 1990 in Book L 493, Page 2025, Official Records
Affects:	Right of way Area 1

Commencing at the Southernmost corner of Parcel "A" as shown and so designated on that certain Record of Survey filed March 10, 1969 in Book 250 of Maps, at page 19, Santa Clara County Records; thence, coincident with the Southeasterly line thereof, N. 35 deg. 36' 50" E. 226.29 feet; thence, N. 42 deg. 39' 20" E. 214.54 feet to the true point of beginning; thence from said true point of beginning and leaving said Southeasterly line N. 38 deg. 38' 40" E. 69.93 feet; thence from a tangent that bears, N. 38 deg. 38' 40" E. along the arc of a 2,500 foot radius curve to the right 711.83 feet, through a central angle of 16 deg. 18' 50"; thence, N. 54 deg. 57' 30" E. 240.59 feet; thence along the arc of a 2,420 foot radius curve to the left 370.80 feet, through a central angle of 08 deg. 46' 44" to a point in the Northeasterly line of Parcel "J" as shown and so designated on that certain Record of Survey filed February 17, 1969 in Book 249 of Maps, at page 1, Santa Clara County Records; thence, coincident therewith, S. 37 deg. 43' 15" E. 35.20 feet to the most Easterly corner of said Parcel "J"; thence leaving said Northeasterly line from a tangent that bears, S. 46 deg. 16' 00" W. along the arc of a 2.455 foot radius curve to the right , 372.42 feet, through a central angle of 08 deg. 41' 30"; thence, S. 54 deg. 57' 30" W. 425.86 feet; thence along the arc of a 1.545 foot radius curve to the left 439.91 feet, through a central angle of 16 deg. 18' 50" to a point in the aforementioned Southeasterly line of Parcel "A"; thence, coincident therewith, S. 38 deg. 38' 40" W. 150.55 feet; thence, N. 51 deg. 21' 20" W. 20.00 feet to the true point of beginning.

Said document also disclose that the portion of said land hereinabove stated is to be used for ingress and egress, public utilities, storm and sanitary sewers, water pipe lines and street purposes by owners of other parcels of land.

9. The requirement that a Statement of Partnership Authority (GP-1) pursuant to Section 16105 of the California Corporations Code of the State of California, be recorded in the office of the Recorder of the County of Santa Clara on Bumb & Associates, a California general partnership.
10. Rights of parties in possession.
11. Any facts, rights, interests or claims which a correct survey would show.
12. Environmental Responsibility Acceptance: Evidence must be provided that there are no commitment statements in effect under Civil Code Section 850 et seq. with respect to the property.

In order to remove this statement, the landowner will need to provide this company with an affidavit stating that they are not aware of any release reports or commitment statements which have been issued under this statute, with respect to the property.

NOTES:

Privacy Promise For Customers

We will not reveal non-public personal customer information to any external non-affiliated organization unless we have been authorized by the customer, or are required by law.

Occasionally, due to certain market conditions, it may not be possible to deliver policies of title insurance in a time frame that our clients request. Should you have individual needs please contact the title operation that issued this report. We recognize, appreciate and understand your needs.

- a. STR applies: No
- b. This report does not reflect requests for notice of default, requests for notice of delinquency, subsequent transfers of easements, and similar matters not germane to the issuance of the policy of title insurance anticipated hereunder.
- c. If this company is requested to disburse funds in connection with this transaction, Chapter 598 of 1989 Mandates of the California Insurance Code requires hold periods for checks deposited to escrow or sub-escrow accounts. Such periods vary depending upon the type of check and anticipated methods of deposit should be discussed with the escrow officer.
- d. No endorsement issued in connection with the policy and relating to covenants, conditions or restrictions provides coverage for environmental protection.
- e. Our investigation has been completed and the improvements located on the land described herein is a commercial property known as **11861 Berryessa Road, San Jose, CA 95133**.

At the close of escrow, an ALTA Lenders Policy of Title Insurance will be issued with 100 and 116 series Endorsements.

- f. If the land is an improved residential lot on which there is located a one-to-four family residence and each insured buyer is a natural person, and unless otherwise directed, we will issue the extended coverage CLTA Homeowners Policy of Title Insurance (6/2/98).
- g. According to the public records, there has been no conveyance of the land within a period of twenty-four months prior to the date of this report.

**This order was generated by Financial Title Company. All questions and recordings should be directed to Gary Roseen, 941 W. Hedding Street, San Jose, CA 95126.
Phone: (408) 345-4500**

EXHIBIT "A"

LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS

CLTA Preliminary Report Form
(Rev. 6/98)

CLTA PRELIMINARY REPORT FORM LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS

SCHEDULE B

1. CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY FORM - 1990 AND CALIFORNIA LAND TITLE ASSOCIATION HOMEOWNER'S POLICY - EAGLE (6/2/98) EXCLUSIONS FROM COVERAGE

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence of violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 - a. building
 - b. zoning
 - c. land use
 - d. improvements on the land
 - e. land division
 - f. environmental protectionThis Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.
This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the land by condemning it, unless:
 - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
 - b. the taking happened before the Policy Date and is binding on you if you bought the land without knowing of the taking.
4. Risks:
 - a. that are created, allowed or agreed to by you, whether or not they appear in the Public Records;
 - b. that are known to you at the Policy Date, but not to us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to you; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24, or 25.
5. Failure to pay value for your title.
6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

2. AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92) WITH ALTA ENDORSEMENT - FORM 1 COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.

EXHIBIT "A" - CONTINUED

2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (a) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (b) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (c) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure: (i) to timely record the instrument of transfer; or (ii) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
3. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
4. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), (c) are shown by the public records.

FINANCIAL TITLE COMPANY

Notice of Opportunity to Earn Interest

You have the opportunity to earn interest on the funds you deposit with us by instructing us to deposit your funds into an interest bearing account. (You do not have an opportunity to earn interest on any funds deposited by a lender.) If you elect to earn interest, there is an additional fee in the amount of \$50.00 for establishing and maintaining such an account. It is important that you consider this cost as it may exceed the actual interest you earn.

Example: A regular savings deposit of \$1,000.00 at an average interest rate of 3.0%* per annum for a 30 day period:

<u>Deposit</u>	x	<u>Rate</u>	÷	<u>Annual</u>	x	<u>Days</u>	=	<u>Total Interest Earned</u>
\$1,000.00	x	.03	÷	360	x	30	=	\$2.50

PLEASE READ THE FOLLOWING CAREFULLY:

A. If you do not want to have your funds deposited into an interest bearing account, please initial this paragraph and return this Notice and such will constitute an instruction to us that your funds be deposited into Financial Title Company's general escrow account. Likewise, non-receipt of this form will also constitute an instruction to us that your funds be deposited into Financial Title Company's general escrow account. For important information regarding the general escrow accounts, please read the disclosure in Paragraph C below. **Initials:** _____

B. If you elect to have your funds earn interest in an interest bearing account using Financial Title Company's depository bank, you **MUST** sign this form, below, and return to Financial Title Company. In addition, you will also need to execute a W-9 and Interest Bearing Account Authorization form, which you can obtain by requesting from your Financial Title Company representative. Please Note – all aforementioned forms are required in our possession before your account can be opened and any interest can be accrued. Please be advised that you will be responsible for reporting all earnings to the applicable taxing authorities.

C. Should you not elect to earn interest on your deposit, your funds will be deposited into our general escrow account at a financial institution insured by the FDIC. The general escrow account is restricted and protected against claims by third parties or creditors of Financial Title Company. This is a non-interest bearing account; however, Financial Title Company, may receive certain financial benefits from that financial institution because of the general escrow account and its on-going banking relationship. These benefits may include, without limitation, credits allowed by such financial institution on loans to Financial Title Company and earnings on investments made with the proceeds of such loans, accounting, reporting and other services and products of such financial institution. We do not have an obligation to account to you in any manner for the value of, or to compensate any party for, any benefit received by Financial Title Company. Any such benefits shall be deemed additional compensation of Financial Title Company for its services in connection with the escrow.

ELECTION TO EARN INTEREST:

I HEREBY AUTHORIZE AND DIRECT FINANCIAL TITLE COMPANY TO OPEN AN INTEREST BEARING ACCOUNT AT FINANCIAL TITLE COMPANY'S DEPOSITORY BANK AND TO CHARGE THE ADDITIONAL FEE FOR THIS SERVICE.

SIGNATURE: _____

DATE: _____

SIGNATURE: _____

DATE: _____

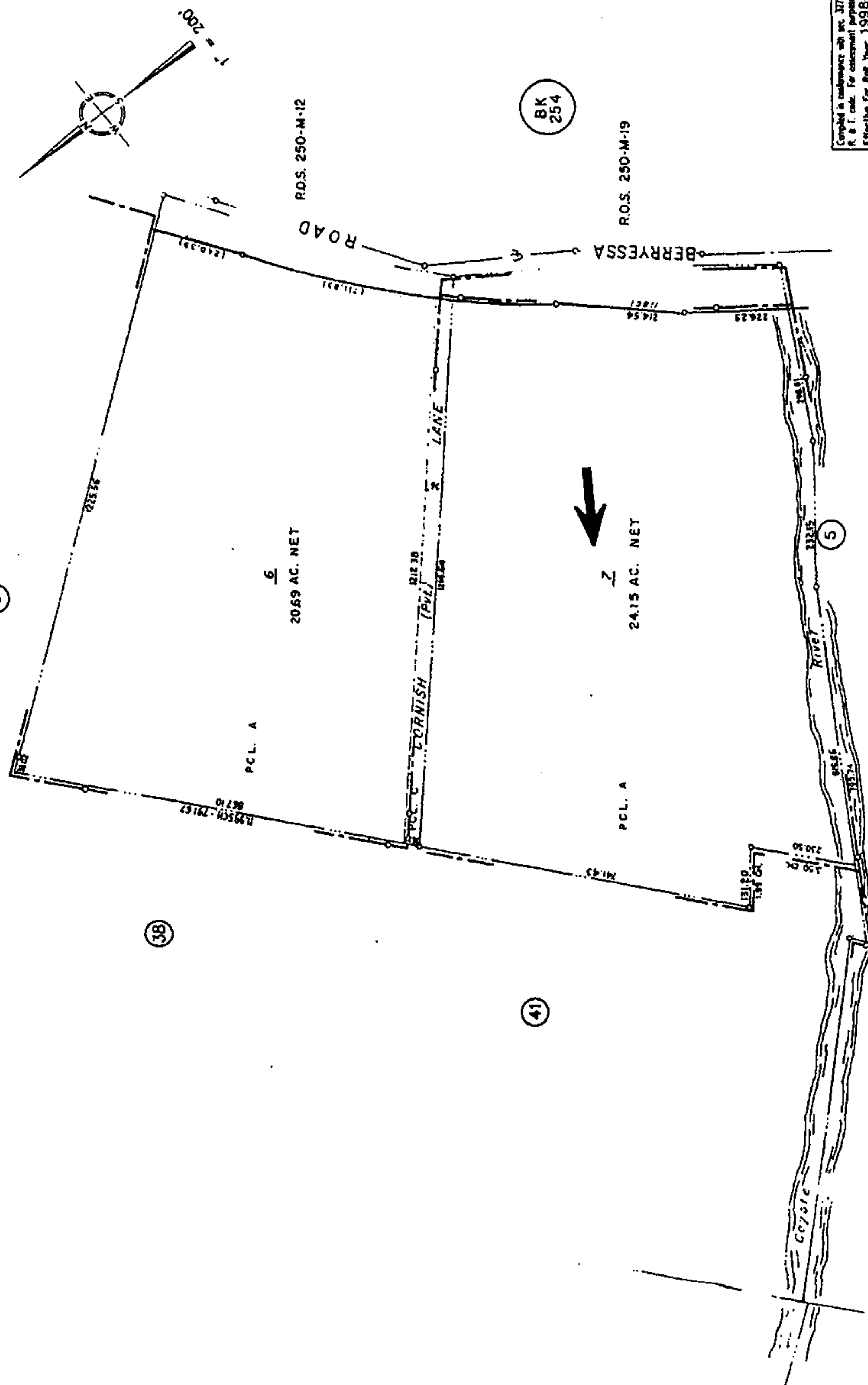
* Please note that this interest rate is only an example and Financial Title Company does not guaranty the availability of any specific rate.

Dated: March 31, 2008

Escrow No.: 2741S007-287-GBC

OFFICE OF COUNTY ASSESSOR — SANTA CLARA COUNTY. CALIFORNIA.

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Complied in accordance with sec. 327 of the
R. & I. code. For assessment purposes only.
Effective For Roll Year 1998-99
LAWRENCE E. STONE - ASSESSOR